

Remarks

In response to the Office Action dated July 18, 2007, Applicants respectfully request reconsideration based on the previous amendments and following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance. Claims 1-3 and 6-11 are pending. Claims 1, 6-7 and 10-11 have been amended. Claim 21 has been previously withdrawn in response to a previous restriction requirement. Support for the amendment may be found at least on page 17 of the specification.

Interview Summary

A telephone interview was conducted on September 14 between the undersigned and Examiner Belivieu. During the interview it was discussed that none of the references describes choosing between multiple selected advertisements by comparing the weightings of specific advertisement classifications. The Examiner indicated that such subject matter would require a new search and requested that written arguments and amendments be provided.

103 Rejections

Claims 1-3, 6 and 8-11 have been rejected under 35 USC §103(a) as being unpatentable over Zigmond (US Pat. 6,698,020) in view of Ficco (US Pat. App. 20050166224). The office action rejects independent claim 1 by asserting that the combination of Zigmond and Ficco describes most of the of the claim elements. Applicants respectfully traverse these rejections.

Without conceding to the correctness of the assertions in the Office Actions, Applicants respectfully assert that amended independent claim 1 recites subject matter not described by the combination of Zigmond and Ficco. Amended independent claim 1 recites, in pertinent part:

“[a] method for inserting targeted advertisements into a media delivery stream...comprising...

creating a record in a data table associated with each of the plurality of advertisements, the data table including a plurality of classifications for each of the plurality of advertisements;
assigning a weighting to at least two classifications for each of the plurality of advertisements;

receiving a signal in the media delivery device to insert a stored advertisement into the media delivery stream during broadcast media programming, wherein the signal to insert the stored advertisement is sent with the broadcast media programming, the signal including at least one classification of the plurality of classifications as provided in the data table;

searching the data table for the stored advertisement having at least one classification that is provided in the signal;

if the search by classification produces more than one stored advertisement, then selecting the stored advertisement to be inserted by comparing each of the classification weightings in the table between the advertisements produced...”

Applicants respectfully assert that amended independent claim 1 recites claim elements not described by the combination of Zigmond and Ficco. For example, Zigmond fails to describe “...selecting the stored advertisement to be inserted by comparing each of the classification weightings in the table between the advertisements produced” Applicants respectfully point out that in its rejection of claim 7, the Office Action apparently concedes that the combination of Zigmond and Ficco fails to describe selecting an advertisement having a classification provided in the signal by weighing the relative importance of each category in the table.

Therefore, because the combination of Zigmond and Ficco fails to describe selecting the stored advertisement to be inserted by comparing each of the classification weightings between the advertisements produced (either on a relative or absolute basis), the Office Action has failed to establish a prima facie case of obviousness in regards to amended independent claim 1. As such amended independent claim 1 is allowable over the combination of Zigmond and Ficco. Claims 2-3, 6 and 8-11 depend from an allowable independent claim 1 and are allowable over the combination of Zigmond and Ficco or at least the same reasons.

In the interest of an efficient prosecution, Applicants respectfully point out that Hite (U.S. Pat. 5,774,170) also fails to describe selecting the stored advertisement to be inserted by comparing the classification weightings between the advertisements produced. Applicants note that Hite merely describes displaying a commercial when a CID in the commercial matches a CID in an addressable recording device where all of the attributes of a commercial are appended to the CID. Hite does not describe a data table associated with each of the plurality of advertisements, the data table including a plurality of classifications for each of the plurality of advertisements or assigning a weighting to at least two classifications for each of the plurality of advertisements. Nor does Hite describe “selecting the stored advertisement to be inserted by comparing the classification weightings between the advertisements produced”.

At most, Hite describes a mere list of CIDs and comparing CIDs. Hite does not describe assigning a weighting to at least two classifications for each of the plurality of advertisements. Therefore, Hite cannot subsequently compare multiple classification weightings between the

advertisements, whether on a relative or absolute basis. Hite's CID comparison is not the comparing of two or more classifications. There is no description in Hite of two or more classifications, of weighting those classifications, or of comparing the weightings between the advertisements. Therefore, Hite fails to cure these deficiencies noted above in the combination of Zigmond and Ficco.

Claim 7

Claim 7 stands rejected under 35 USC §103as being unpatentable under Zigmond in view of Ficco and further in view of Hite. Applicants respectfully traverse the rejections.

Claim 7 depends from an allowable independent claim 1 and 6 and therefore shares their features and is allowable for at least this reason.

In addition, Claim 7 further recites:

“the sub-classifications include at least two of the frequency by which each resulting commercial has been inserted, the price paid by an advertiser, the expiration date of an advertising contact, and a correlation between a product being advertised and the type of a television program”.

Applicants respectfully assert that Hite also fails to describe the above recitations of amended claim 7. Because Hite fails to cure the deficiencies in the combination of Zigmond and Ficco and because the combination of Zigmond, Ficco and Hite fails to describe the additional elements recited in claim 7, the Office Action has failed to establish a prima facie case of obviousness. Claim 7 is, therefore, allowable over the combination of Zigmond, Ficco and Hite for at least these reasons.

Conclusion

In view of the foregoing remarks, Applicants respectfully assert that the present application is in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is invited to call the Applicant's attorney at the number listed below.

No fees are believed due other than for the filing of an RCE. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: October 10, 2007

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